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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,952	10/30/2001	John Carl DelMonaco	SVL920010017US1	4762
47069	7590	06/30/2006	EXAMINER	
			ALAM, SHAHID AL	
			ART UNIT	PAPER NUMBER
			2162	

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/003,952	DELMONACO ET AL.
	Examiner	Art Unit
	Shahid Al Alam	2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11 April 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 5-15,25-35,45-55 and 61-87 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 5-8,10-15,25-28,30-35,45-48,50-55 and 61-87 is/are rejected.
- 7) Claim(s) 9, 29, 49 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-1449)
- 6) Other: _____.

SHAHID ALAM

PRIMARY EXAMINER

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed April 11, 2006 have been fully considered but they are not persuasive.
2. As per arguments from page 19 – 29, Applicant's main argument is that the cited reference does not teach or disclose claimed invention (i.e., all limitations).

Examiner respectfully disagrees all of the allegations as argued. Examiner, in his previous office action, gave detail explanation of claimed limitation and pointed out exact locations in the cited prior art.

Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification.

Interpretation of Claims-Broadest Reasonable Interpretation

During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 162 USPQ 541,550-51 (CCPA 1969).

In response to Applicants' argument that the cited location has nothing to do with applicant's invention. Examiner likes to point out that in the "Schering Corp. v. Geneva Pharmaceuticals Inc., 64 USPQ2d 1032 (DC NJ 2002) Decided August 8, 2002."

In the above case it is concluded that the prior art disclosure need not be express in order to anticipate. Even if a prior art inventor does not recognize a

function of his or her process, the process can anticipate if that function was inherent.

To establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and **that it would be so recognized by persons of ordinary skill. Inherency is not necessarily coterminous with the knowledge of those of ordinary skill in the art.**

Artisans of ordinary skill may not recognize the inherent characteristics or functioning of the prior art. However, the discovery of a previously unappreciated property of a prior art composition, or of a scientific explanation for the prior art's functioning, does not render the old composition patentably new to the discoverer. Insufficient prior understanding of the inherent properties of a known composition does not defeat a finding of anticipation.

In response to applicant's argument, specifically on page 29, paragraphs 1 and 2, that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to combine is suggested by Melahn '042 which discloses source code, such as the system of Baldwin '449, when placed into source control provide for parallel development involving multiple developers (Melahn '042: col. 1, line. 64 to col. 2, line. 4).

For the above reasons, Examiner believed that rejection of the last office action was proper.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5 – 8, 10 – 14, 25 – 28, 30 – 34, 45 – 48, 50 – 54, 61, 63 – 70, 72 – 79 and 81 – 87 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 5,452,449 issued to Baldwin et al. ("Baldwin").

With respect to claims 5, 25 and 45, Baldwin teaches performing an impact analysis (see Abstract; col. 4, lines. 9-10) of program statements in a source code file that is one of a plurality of source code files (col. 3, lines. 55-60), wherein each program statement has at least one of an input parameter and output parameter (col. 4, lines. 42-44), comprising:

receiving selection of at least one program statement in one source code file (col. 4, lines. 10-29 – note "global module selection"); and
for each selected program statement, determining program statements throughout the source code files having as one input parameter one program artifact

that is affected by the selected program statement (col. 4, line. 54 to col. 5, line. 55 - note the "process analysis" and "impact analysis" items).

As to claims 6, 26 and 46, wherein the source code files including the program artifacts affected by the selected program statement comprise components of an application program (col. 3, lines. 49-52).

As to claims 7, 27 and 47, wherein determining the program statements having as one input parameter one program artifact affected by the selected program statement further comprises: determining program statements in the source code files having as one input parameter the program artifact that is one output parameter to the selected program statement (col. 5, lines. 3-8).

As to claims 8, 28 and 48, Baldwin discloses all the limitations of Claim 7 *supra*. Additionally, Baldwin '449 discloses: wherein determining the program statements having as one input parameter one program artifact affected by the selected program statement further comprises:

- for each previously determined program statement having as one input parameter one program artifact affected by the selected program statement (Baldwin '449: col. 5, lines. 4-25), performing the steps of:
 - (i) determining the output parameter program artifact of the statement (Baldwin '449: col. 5, lines. 2-8); and
 - (ii) determining program statements in the source code files having as one input parameter the program artifact that is the output parameter of the previously determined statement (Baldwin '449: col. 5, lines. 12-25).

As to claims 10, 30 and 50, outputting information on determined program statements and program artifacts affected by each selected program statement (col. 3, line. 63 to col. 4, line. 5).

As to claims 11, 31 and 51, wherein the program artifact comprises a variable, Input/Output buffer or file (col. 14, line. 45 to col. 15, line. 13 - note COBOL procedures pass variables, buffers, and files).

As to claims 12, 32 and 52, wherein one program statement has one input parameter that is affected by the selected program statement if the output parameter program artifact of the selected program statement is the input parameter program artifact to the program statement (Baldwin '449: col. 5, lines. 3-8).

As to claims 13, 33 and 53, wherein one statement further has one input parameter that is affected by the selected program statement if the output parameter program artifact of the selected program statement is the input parameter program artifact to the program statement or if the output parameter program artifact of one statement other than the selected program statement has as one input parameter one program artifact affected by the selected program statement (col. 5, lines. 4-23).

As to claims 14, 34 and 54, wherein if the selected program statement comprises a call to a program routine comprised of a plurality of statements in one of the source code files, then one statement has one input parameter that is affected by the selected program statement (Baldwin '449: col. 5, lines. 3-8) if:

the output parameter program artifact of the selected source code statement is the input parameter program artifact to the statement (Baldwin '449: col. 14, lines. 48-54 - note indicating if a module changes a parameter value indicates whether the parameter is an input or an output parameter); or

the input parameter of the selected source code statement is the input parameter program artifact to the statement (Baldwin '449: col. 14, lines. 48-54 - note indicating if a module changes a parameter value indicates whether the parameter is an input or an output parameter).

With respect to claims 61, 70 and 79, generating information on each program artifact referenced as an output parameter in the at least one program statement (Baldwin '449: col. 4, lines. 40-48; col. 14, lines. 48-54 - note a reference that changes a parameter value is an output parameter).

With respect to claims 63, 72 and 81, associating each program artifact with a program statement referencing the program artifact (Baldwin '449: col. 4, line. 54 to col. 5, line. 55 - note the "process analysis" and "impact analysis" items) as one input or output parameter and information indicating whether the program statement references the program artifact as input or output (Baldwin '449: col. 14, lines. 48-54 - note indicating if a module changes a parameter value indicates whether the parameter is an input or an output parameter).

With respect to claims 64, 73 and 82, the program artifact comprises a variable, Input/Output buffer or file (Baldwin '449: col. 14, line. 45 to col. 15, line. 13 - note COBOL procedures pass variables, buffers, and files).

As to claims 65, 74 and 83, determined program statements in the source code file having as one input parameter one program artifacts that is affected by the selected program statement (col. 3, line. 63 to col. 4, line. 5).

With respect to claims 66, 75 and 84, the program artifact comprises a variable, Input/Output buffer or file (Baldwin '449: col. 14, line. 45 to col. 15, line. 13 - note COBOL procedures pass variables, buffers, and files).

With respect to claims 67, 76 and 85, wherein one program statement has one input parameter that is affected by the selected program statement if the output parameter program artifact of the selected program statement is the input parameter program artifact to the program statement (Baldwin '449: col. 5, lines. 3-8).

With respect to claims 68, 77 and 87, wherein one statement further has one input parameter that is affected by the selected program statement if the output parameter program artifact of the selected program statement is the input parameter program artifact to the program statement or if the output parameter program artifact of one statement other than the selected program statement has as one input parameter one program artifact affected by the selected program statement (column 5, lines 4-23).

With respect to claims 69, 78 and 87, selection of a plurality of program statement is received (column 5, lines 4 – 23).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 15, 35, 55, 62, 71 and 80, are rejected under 35 U.S.C. 103(a) as being unpatentable over Baldwin '449 in view of U.S. Patent No. 6,003,042 issued to Melahn ("Melahn '042").

With respect to claims 15, 35, 55, 62, 71 and 80 Baldwin discloses all the limitations of claims 5, 25 and 45 *supra*. However, Baldwin does not explicitly disclose: further comprising: accessing the source code files from a control management system and the source code files comprises components of an application program.

Melahn '042 discloses a source control management system. Specifically, Melahn '042 discloses: further comprising: accessing the source code files from a control management system (Melahn '042: col. 1, lines. 48-63).

It would have been obvious to a person having ordinary skill in the art to apply the source control as disclosed by Melahn '042 to the impact analysis means of Baldwin '449. The motivation to combine is suggested by Melahn '042 which discloses that source code, such as that of Baldwin '449, when placed into source control provide for

parallel development involving multiple developers (Melahn '042: col. 1, line. 64 to col. 2, line. 4).

Allowable Subject Matter

5. Claims 9, 29 and 49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shahid Al Alam whose telephone number is (571) 272-4030. The examiner can normally be reached on Monday-Thursday 8:00 A.M.- 4:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Shahid Al Alam
Primary Examiner
Art Unit 2162